

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.1730 OF 2000
IN
CRIMINAL WRIT PETITION NO.878 OF 2000

1. Shri Sheriar Faramroze Patel,
Adult, Indian Inhabitant,
at present residing at
Najoo Mansion, 2nd Floor,
Nawab Tank Bridge, Mazgaon,
Mumbai-400 010.
 2. Mr. Shafeeqe A. Wahid Khan,
r/o R.No.1, Vaz Cottage,
Church Street, Mazgaon,
Bombay.
- Petitioners

- Versus -

1. The State of Maharashtra
through the Secretary,
Home Department, Mantralaya,
Mumbai.
2. The Commissioner of Police,
Police Headquarters,
Crawford Market, Mumbai.
3. Mr. Amitesh Kumar,
Deputy Commissioner of Police
(Zone-3), Bawla Compound,
Opp: Byculla Goods Yard,
Byculla, Mumbai.
4. Mr. Walawalkar,
Additional Commissioner of
Police, Byculla Division,
at present working as
Deputy Commissioner of
Police, Southern Region.
5. Mr. Arun Mohite,
Senior Inspector of Police,
Byculla Police Station,
Byculla.
6. Mr. Chopne, Inspector of
Police (Administration),
Byculla Police Station,
at present working with
Agripada Police Station.

7. Mr. Ashraf Mansoor Khan
at present residing at
Noorjahan Apartment,
4th Floor, Near Kadar
Manzil, Mujahir Road,
Nuri Chawl, Mumbra-
400 612.
8. Dismissed vide Court's order
dated 25/8/2006.
9. Mrs. Regi P. Vaz,
at present residing at
C/26/15, J.B. Nagar,
Opp: LIC Officer's
Training College,
Borivali (W), Bombay.
10. Dismissed vide Court's order
dated 25/8/2006. Respondents

None for the Petitioners.

Shri V.B. Konde-Deshmukh, Addl. Public
Prosecutor, for the Respondent Nos.1 to 6.

CORAM: R.M.S. KHANDEPARKAR &
Smt. ROSHAN DALVI, JJ.

DATED: JULY 27, 2007

ORAL JUDGMENT (Per R.M.S.Khandeparkar, J.):

1. None present for the petitioners. Shri V.B. Konde-Deshmukh, Addl. Public Prosecutor, present for the respondent Nos.1 to 6. We have heard the learned A.P.P. and with his assistance gone through the entire records.

2. This is a petition seeking relief in the nature of direction to the police authorities to register the

complaint dated 14-2-2000 as F.I.R. and to investigate into the matter and further to quash the F.I.R. No.69 of 2000 lodged against the petitioners under Section 307 r/w Section 34 of the Indian Penal Code. It is the grievance of the petitioners that the petitioners had lodged a complaint on 14-2-2000 pursuant to alleged illegal dispossession of the petitioners from the premises being Room No.1, ground floor, Vaz Cottage, Church Street, (E) Ward, Mazgaon, Bombay-400 010. During the pendency of the petition, pursuant to the order dated 25-8-2006 the petition stood dismissed against the respondent Nos.8 and 10.

3. Perusal of the complaint dated 14-2-2000 undoubtedly, discloses vague allegations regarding trespass and threats to the complainant. It is not in dispute that the police did not register any F.I.R. on the basis of the said complaint. However, mere refusal on the part of the police to register the F.I.R. on the basis of the complaint which contained mere allegations without giving the required factual information which could reveal cognizable offence, no fault can be found with the hesitation on the part of the police authorities to register the complaint as the F.I.R. and commencing investigation. In any case, nothing prevents the complainant from approaching the Magistrate with the required complaint in terms of the provisions of law

comprised under the Code of Criminal Procedure, either for direction to the police authorities for necessary investigation or to take cognizance of the complaint of the petitioner by the Magistrate himself. The records do not disclose any such efforts on the part of the petitioners nor any explanation on the part of the petitioners for not taking recourse to the provisions of the Code of Criminal Procedure to seek the necessary redress in the matter. Looking to the nature of the grievance made in the complaint dated 14-2-2000, we do not find any case having been made out for direction for recording of the said complaint as the F.I.R. and to further order investigation into the matter in that regard. We may record that this shall not prevent the petitioners from approaching the Magistrate for necessary redress in accordance with the provisions of law, if the complaint warrants to do so and if the Magistrate finds it worthwhile.

4. As regards the grievance against the F.I.R. No.69 of 2000, bare perusal of the complaint in that regard discloses acts on the part of the persons named therein as accused, they having committed cognizable offence on their part. The complaint refers to assault on the person of the complainant with wooden stick as also assault on the stomach by the persons named therein by knife. Apparently, it discloses cognizable offence at

least under Section 326, if not under Section 307 of the Indian Penal Code. Being so, question of quashing the said F.I.R. in writ jurisdiction does not arise.

5. For the reasons stated above, therefore, there is no case for interference in the matter. The petition fails and is hereby dismissed. The rule is discharged with no order as to costs.

(Smt.Roshan Dalvi, J.)

(R.M.S.Khandeparkar, J.)

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